

Message Text

LIMITED OFFICIAL USE

PAGE 01 STATE 211631

15
ORIGIN EB-07

INFO OCT-01 AF-08 IO-13 ISO-00 FEA-01 AGR-05 CEA-01

CIAE-00 COME-00 DODE-00 FRB-03 H-02 INR-07 INT-05

L-03 LAB-04 NSAE-00 NSC-05 PA-01 AID-05 CIEP-01 SS-15

STR-04 ITC-01 TRSE-00 USIA-06 PRS-01 SP-02 OMB-01

ARA-06 EA-07 EUR-12 NEA-10 OIC-02 /139 R

DRAFTED BY EB/OT/TA:DMGRIMMER:JVM
APPROVED BY EB/OT/TA:DJDUNFORD
TREASURY:EBARBER
COMMERCE:DBLACK
STR:JGREENWALD
AF/S:AEATON

----- 125492

R 252219Z AUG 76
FM SECSTATE WASHDC
TO USMISSION GENEVA
INFO AMEMBASSY PRETORIA

LIMITED OFFICIAL USE STATE 211631

E.O. 11652:N/A

TAGS: ETRD, GATT, SF

SUBJECT: SOUTH AFRICAN IMPORT DEPOSIT SCHEME (IDS)

REFS: (A) STATE 202108, (B) GENEVA 6421, (C) PRETORIA 3578

1. U.S. WELCOMES SA NOTIFICATION OF IDS TO GATT
(SEE L/4386). ALTHOUGH SA DID NOT NOTIFY THE MEASURE
UNDER ANY PARTICULAR ARTICLE, WE BELIEVE THAT WHEN THE
MATTER IS TAKEN UP UNDER "OTHER BUSINESS" AT THE NEXT
GATT COUNCIL MEETING THAT THE COUNCIL SHOULD REFERIT
LIMITED OFFICIAL USE

LIMITED OFFICIAL USE

PAGE 02 STATE 211631

TO THE BOP COMMITTEE RATHER THAN TO AN AD

HOC WORKING PARTY. REFERRAL TO BOP COMMITTEE WOULD BE PREFERABLE IN VIEW OF THE NEED TO MAKE MAXIMUM USE OF EXPERIENCED, WELL-ESTABLISHED GATT BODIES. BOP COMMITTEE, AS PERMANENT BODY, IS IN BETTER POSITION THAN WORKING PARTY TO REVIEW SUCH ACTIONS ON ONGOING BASIS AND TO FOLLOW UP ON ITS OWN RECOMMENDATIONS. SA EXPRESSED INTENTION, AS PART OF COMMITMENT IN RECEIVING SECOND CREDIT TRANCHE (REF A), NOT TO TIGHTEN CURRENT RESTRICTIONS OR ADOPT NEW RESTRICTIONS WITHOUT PRIOR CONSULTATION WITH FUND. ALSO, BOP COMMITTEE TERMS OF REFERENCE INDICATE THAT IT SHOULD HANDLE CONSULTATIONS WITH IMF (CF. BISD 7TH SUPP. P. 10).

2. SA CAN BE EXPECTED TO ARGUE, AS SUGGESTED IN REF B, THAT THE BOP COMMITTEE JURISDICTION IS LIMITED TO QUANTITATIVE RESTRICTIONS (QRS) TAKEN FOR BALANCE OF PAYMENTS REASONS WHICH ARE NOTIFIED UNDER ARTICLE XII. WE BELIEVE THAT ANY RESTRICTIVE ACTIONS TAKEN FOR BOP REASONS BY DEVELOPED COUNTRIES FALL WITHIN THE PURVIEW OF GATT ARTICLE XII OR XV AND, CONCOMITANTLY, OF THE BALANCE OF PAYMENTS COMMITTEE. IN RECENT YEARS, NUMEROUS RESTRICTIVE ACTIONS, OTHER THAN QRS, TAKEN FOR BOP REASONS HAVE BEEN NOTIFIED TO THE GATT UNDER ARTICLES XII (FOR THE DEVELOPED COUNTRIES) AND XVIII (IN THE CASE OF LDCS). THESE NOTIFICATIONS HAVE ALREADY SET PRECEDENT FOR BROAD INTERPRETATION OF KINDS OF ACTION TAKEN FOR BOP REASONS. ALTHOUGH MOST SUCH ACTIONS HAVE BEEN NOTIFIED BY LDCS UNDER XVIII, THERE ARE ALSO CASES INVOLVING DEVELOPED COUNTRIES, SUCH AS THE UK'S 1964 IMPORT CHARGE, WHICH WERE NOTIFIED TO THE GATT UNDER ARTICLE XII. (SEE BISD 15TH SUPP. P. 113.) IN A MORE RECENT AND ANALOGOUS CASE FINLAND'S IDS IN 1976 WAS NOTIFIED TO THE GATT AND WAS REVIEWED IN BOP COMMITTEE. (SEE BOP/R/79.)

3. SA MAY ARGUE THAT, EVEN IF A CONTRACTING PARTY MAY NOTIFY NON-QR ACTION TAKEN FOR BOP REASONS UNDER ARTICLE XII, THIS IS MATTER OF CHOICE; THAT IS A COUNTRY IS NOT OBLIGED TO NOTIFY A RESTRICTIVE ACTION UNDER ANY PARTICULAR GATT ARTICLE. IT IS TRUE SOME CPS LIMITED OFFICIAL USE

LIMITED OFFICIAL USE

PAGE 03 STATE 211631

HAVE OPTED FOR THIS LATTER COURSE OF ACTION AND HAVE SUBMITTED, IN LIEU OF BOP COMMITTEE REVIEW, TO AN AD HOC WORKING PARTY EXAMINATION. HOWEVER, WE THINK SUCH A ONE-SHOT REVIEW IS FAR LESS SATISFACTORY THAN BOP COMMITTEE REVIEW.

4. THE U.S. IS AWARE OF SA'S EARLIER EXPERIENCE AND ULTIMATE DISSATISFACTION WITH BOP COMMITTEE REVIEW

WHICH LED SA TO DISINVOKE ARTICLE XII IN 1972 AFTER BOP COMMITTEE CRITICIZED SA FAILURE TO PHASE-OUT IMPORT RESTRICTIONS AT A FASTER PACE. HOWEVER, THIS SHOULD NOT BE USED AS AN EXCUSE TO AVOID A BOP COMMITTEE CONSULTATION NOW, PARTICULARLY SINCE THE CURRENT SA SITUATION IS FUNDAMENTALLY DIFFERENT (AND CONSIDERABLY MORE JUSTIFIABLE) FROM THAT IN EARLY 70'S.

5. DRAWING ON ABOVE, MISSION IS REQUESTED TO RAISE ISSUE OF REFERRING IDS TO BOP COMMITTEE AT NEXT GATT COUNCIL MEETING. SINCE WE TENTATIVELY PLAN TO PROPOSE THIS AND WILL SEEK THE SUPPORT OF OTHER CPS INCLUDING SA, WE HOPE TO OBTAIN SA SUPPORT ON THIS BEFORE THE NEXT COUNCIL MEETING. IF FUTURE TREATMENT IN GATT OF OTHER DCS - SHOULD THEY TAKE SIMILAR ACTION - IS RAISED, MISSION MAY STATE THAT U.S WILL BE PREPARED TO SUBMIT TO BOP COMMITTEE REVIEW AND WILL URGE OTHER COUNTRIES TO DO LIKEWISE. SINCE SA HAS NOT NOTIFIED IDS UNDER ARTICLE XII, MISSION NEED NOT PUSH ARGUMENT OUTLINED IN PARAGRAPH 2 ABOVE. KEY U.S. INTEREST AT THIS POINT IS REFERRAL OF MATTER TO BOP COMMITTEE RATHER THAN APPLICABILITY OF THESE MEASURES TO ARTICLE XII.

6. FYI - PHAN VAN PHI, EC DIRECTOR GENERAL, TOLD ALAN WOLFF (STR) DURING RECENT VISIT TO WASHINGTON EC COMMISSION WILL NOT OBJECT TO BOP COMMITTEE REVIEW OF ITALY'S FOREIGN EXCHANGE DEPOSIT PROGRAM. SINCE THIS MATTER WILL COME UP BEFORE SA'S IDS AT NEXT GATT COUNCIL MEETING AND WILL PROBABLY RESULT IN BOP COMMITTEE REVIEW, THIS WILL INCREASE GATT PRESSURE FOR SIMILAR HANDLING OF SA IDS. - END FYI. KISSINGER

LIMITED OFFICIAL USE

NNN

LIMITED OFFICIAL USE

PAGE 01 STATE 211631

55
ORIGIN EB-02

INFO OCT-01 ISO-00 /003 R

66011
DRAFTED BY:EB/OT/TA:RAMEYSER:STMCP
APPROVED BY:EB/OT/TA:DDUNFORD
----- 038693

R 161950Z SEP 76
FM SECSTATE WASHDC

TO USMISSION EC BRUSSELS

LIMITED OFFICIAL USE STATE 211631

FOLLOWING REPEAT STATE 211631 ACTION GENEVA INFO PRETORIA DTD 25 AUG 76.

QUOTE: LIMITED OFFICIAL USE STATE 211631

E.O. 11652:N/A

TAGS: ETRD, GATT, SF

SUBJECT: SOUTH AFRICAN IMPORT DEPOSIT SCHEME (IDS)

REFS: (A) STATE 202108, (B) GENEVA 6421, (C) PRETORIA 3578

1. U.S. WELCOMES SA NOTIFICATION OF IDS TO GATT (SEE L/4386). ALTHOUGH SA DID NOT NOTIFY THE MEASURE UNDER ANY PARTICULAR ARTICLE, WE BELIEVE THAT WHEN THE MATTER IS TAKEN UP UNDER "OTHER BUSINESS" AT THE NEXT GATT COUNCIL MEETING THAT THE COUNCIL SHOULD REFER IT TO THE BOP COMMITTEE RATHER THAN TO AN AD HOC WORKING PARTY. REFERRAL TO BOP COMMITTEE WOULD BE PREFERABLE IN VIEW OF THE NEED TO MAKE MAXIMUM USE OF EXPERIENCED, WELL-ESTABLISHED GATT BODIES. BOP COMMITTEE, AS PERMANENT BODY, IS IN BETTER POSITION THAN WORKING PARTY TO REVIEW SUCH ACTIONS ON ONGOING BASIS AND TO FOLLOW UP ON ITS OWN RECOMMENDATIONS. SA EXPRESSED LIMITED OFFICIAL USE

LIMITED OFFICIAL USE

PAGE 02 STATE 211631

INTENTION, AS PART OF COMMITMENT IN RECEIVING SECOND CREDIT TRANCHE (REF A), NOT TO TIGHTEN CURRENT RESTRICTIONS OR ADOPT NEW RESTRICTIONS WITHOUT PRIOR CONSULTATION WITH FUND. ALSO, BOP COMMITTEE TERMS OF REFERENCE INDICATE THAT IT SHOULD HANDLE CONSULTATIONS WITH IMF (CF. BISD 7TH SUPP. P. 10).

2. SA CAN BE EXPECTED TO ARGUE, AS SUGGESTED IN REF B, THAT THE BOP COMMITTEE JURISDICTION IS LIMITED TO QUANTITATIVE RESTRICTIONS (QRS) TAKEN FOR BALANCE OF PAYMENTS REASONS WHICH ARE NOTIFIED UNDER ARTICLE XII. WE BELIEVE THAT ANY RESTRICTIVE ACTIONS TAKEN FOR BOP REASONS BY DEVELOPED COUNTRIES FALL WITHIN THE PURVIEW OF GATT ARTICLE XII OR XV AND, CONCOMITANTLY, OF THE BALANCE OF PAYMENTS COMMITTEE. IN RECENT YEARS, NUMEROUS RESTRICTIVE ACTIONS, OTHER THAN QRS, TAKEN FOR BOP REASONS HAVE BEEN NOTIFIED TO THE GATT UNDER ARTICLES XII (FOR THE DEVELOPED COUNTRIES)

AND XVIII (IN THE CASE OF LDCS). THESE NOTIFICATIONS HAVE ALREADY SET PRECEDENT FOR BROAD INTERPRETATION OF KINDS OF ACTION TAKEN FOR BOP REASONS. ALTHOUGH MOST SUCH ACTIONS HAVE BEEN NOTIFIED BY LDCS UNDER XVIII, THERE ARE ALSO CASES INVOLVING DEVELOPED COUNTRIES, SUCH AS THE UK'S 1964 IMPORT CHARGE, WHICH WERE NOTIFIED TO THE GATT UNDER ARTICLE XII. (SEE BISD 15TH SUPP. P. 113.) IN A MORE RECENT AND ANALOGOUS CASE FINLAND'S IDS IN 1976 WAS NOTIFIED TO THE GATT AND WAS REVIEWED IN BOP COMMITTEE. (SEE BOP/R/79.)

3. SA MAY ARGUE THAT, EVEN IF A CONTRACTING PARTY MAY NOTIFY NON-QR ACTION TAKEN FOR BOP REASONS UNDER ARTICLE XII, THIS IS MATTER OF CHOICE; THAT IS A COUNTRY IS NOT OBLIGED TO NOTIFY A RESTRICTIVE ACTION UNDER ANY PARTICULAR GATT ARTICLE. IT IS TRUE SOME CPS HAVE OPTED FOR THIS LATTER COURSE OF ACTION AND HAVE SUBMITTED, IN LIEU OF BOP COMMITTEE REVIEW, TO AN AD HOC WORKING PARTY EXAMINATION. HOWEVER, WE THINK SUCH A ONE-SHOT REVIEW IS FAR LESS SATISFACTORY THAN BOP COMMITTEE REVIEW.

4. THE U.S. IS AWARE OF SA'S EARLIER EXPERIENCE AND LIMITED OFFICIAL USE

LIMITED OFFICIAL USE

PAGE 03 STATE 211631

ULTIMATE DISSATISFACTION WITH BOP COMMITTEE REVIEW WHICH LED SA TO DISINVOKE ARTICLE XII IN 1972 AFTER BOP COMMITTEE CRITICIZED SA FAILURE TO PHASE-OUT IMPORT RESTRICTIONS AT A FASTER PACE. HOWEVER, THIS SHOULD NOT BE USED AS AN EXCUSE TO AVOID A BOP COMMITTEE CONSULTATION NOW, PARTICULARLY SINCE THE CURRENT SA SITUATION IS FUNDAMENTALLY DIFFERENT (AND CONSIDERABLY MORE JUSTIFIABLE) FROM THAT IN EARLY 70'S.

5. DRAWING ON ABOVE, MISSION IS REQUESTED TO RAISE ISSUE OF REFERRING IDS TO BOP COMMITTEE AT NEXT GATT COUNCIL MEETING. SINCE WE TENTATIVELY PLAN TO PROPOSE THIS AND WILL SEEK THE SUPPORT OF OTHER CPS INCLUDING SA, WE HOPE TO OBTAIN SA SUPPORT ON THIS BEFORE THE NEXT COUNCIL MEETING. IF FUTURE TREATMENT IN GATT OF OTHER DCS - SHOULD THEY TAKE SIMILAR ACTION - IS RAISED, MISSION MAY STATE THAT U.S WILL BE PREPARED TO SUBMIT TO BOP COMMITTEE REVIEW AND WILL URGE OTHER COUNTRIES TO DO LIKEWISE. SINCE SA HAS NOT NOTIFIED IDS UNDER ARTICLE XII, MISSION NEED NOT PUSH ARGUMENT OUTLINED IN PARAGRAPH 2 ABOVE. KEY U.S. INTEREST AT THIS POINT IS REFERRAL OF MATTER TO BOP COMMITTEE RATHER THAN APPLICABILITY OF THESE MEASURES TO ARTICLE XII.

6. FYI - PHAN VAN PHI, EC DIRECTOR GENERAL, TOLD

ALAN WOLFF (STR) DURING RECENT VISIT TO WASHINGTON EC
COMMISSION WILL NOT OBJECT TO BOP COMMITTEE REVIEW OF
ITALY'S FOREIGN EXCHANGE DEPOSIT PROGRAM. SINCE THIS
MATTER WILL COME UP BEFORE SA'S IDS AT NEXT GATT COUNCIL
MEETING AND WILL PROBABLY RESULT IN BOP COMMITTEE REVIEW,
THIS WILL INCREASE GATT PRESSURE FOR SIMILAR HANDLING
OF SA IDS. - END FYI. KISSINGER
UNQUOTE HABIB

LIMITED OFFICIAL USE

NNN

Message Attributes

Automatic Decaptioning: X
Capture Date: 01 JAN 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: IMPORTS, ECONOMIC PROGRAMS, FOREIGN TRADE
Control Number: n/a
Copy: SINGLE
Draft Date: 25 AUG 1976
Decaption Date: 01 JAN 1960
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Authority: ShawDG
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 28 MAY 2004
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1976STATE211631
Document Source: CORE
Document Unique ID: 00
Drafter: DMGRIMMER:JVM
Enclosure: n/a
Executive Order: N/A
Errors: N/A
Film Number: D760325-0554
From: STATE
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1976/newtext/t19760819/aaaaaqhw.tel
Line Count: 285
Locator: TEXT ON-LINE, ON MICROFILM
Office: ORIGIN EB
Original Classification: LIMITED OFFICIAL USE
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 6
Previous Channel Indicators: n/a
Previous Classification: LIMITED OFFICIAL USE
Previous Handling Restrictions: n/a
Reference: 76 STATE 202108, 76 GENEVA 6421, 76 PRETORIA 3578
Review Action: RELEASED, APPROVED
Review Authority: ShawDG
Review Comment: n/a
Review Content Flags:
Review Date: 07 APR 2004
Review Event:
Review Exemptions: n/a
Review History: RELEASED <07 APR 2004 by CunninFX>; APPROVED <10 AUG 2004 by ShawDG>
Review Markings:

Margaret P. Grafeld
Declassified/Released
US Department of State
EO Systematic Review
04 MAY 2006

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: NATIVE
Subject: SOUTH AFRICAN IMPORT DEPOSIT SCHEME (IDS)
TAGS: ETRD, SF, GATT
To: GENEVA
Type: TE
Markings: Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 04 MAY 2006